

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

| | | |
|--------------------------|---|---------------------------|
| IN RE: |) | |
| |) | |
| DORIS BRODZINSKI, |) | CASE NO.: 20-21864 |
| |) | Chapter 7 |
| Debtor. |) | |

**OBJECTION TO DEBTOR'S CHAPTER 13 PLAN
(FILED SEPTEMBER 22, 2020)**

Creditor FNA DZ, LLC, by counsel, makes and files the following objections to Debtor's proposed Chapter 13 Plan, filed September 22, 2020. (Docket Entry 2) In support of Creditor's objection, Creditor states:

- 1) This Chapter 13 case commenced by voluntary petition filed September 22, 2020.
- 2) Creditor FNA DZ, LLC is a secured creditor. Creditor is the holder and owner of an Indiana Treasurer tax sale certificate. The Lake County Treasurer held and conducted a tax sale on September 3, 2019, pursuant to Indiana state law.
- 3) Debtor filed Schedules and SOFA statements listed and disclosed, in part, the following:
 - A) 2010 Lincoln Ave., Whiting, IN 46394 (Real estate tax property #45-03-07-182-019.000-023) (Value: \$140,000 The Lake County Assessor has valued the property and real estate as \$159,700.00).
 - B) Debtor also listed and filed Schedule I and J which, in pertinent parts, stated under oath Debtor is not paying, and does not pay, any real estate taxes, or property insurance (Reference Schedule J, line 4(A) real estate taxes, -0-; line 4(b) property insurance, -0-; Line 15 insurance, other than vehicle insurance, -0-; line 16 taxes, -0-; line 20(b) real estate taxes, -0-; line 20(c) property insurance, -0-).
 - C) It appears from Schedule D – secured claims, Creditor FNA DZ, LLC's secured claim and statutory lien is the only secured claim on Debtor's real estate, 2010 Lincoln Ave., Whiting, IN 46394.
- 4) Under relevant non-bankruptcy law and Indiana state law, the time and period for Debtor to redeem the property and real estate has expired prior to the commencement of this Chapter 13 case.

The last day for redemption was September 3, 2020.

- 5) Debtor's proposed Chapter 13 Plan, filed September 22, 2020 (Docket Entry 2) provides the following treatment of Creditor's secured claim:

- Paragraph 3.2 Creditor will retain the lien on the property interest of Debtor or the estate until the earlier of: (a) payment of the underlying debt determined under non-bankruptcy law.

| <u>Creditor</u> | <u>Estimated Amount Of Total Claim</u> | <u>Collateral</u> | <u>Value of Collateral</u> | |
|-----------------------------------|--|-----------------------------------|--------------------------------|-------------------------------|
| FNA-DZ, LLC | \$11,619.67 | 2010 Lincoln Whiting, IN 46394 | \$140,000 | |
| <u>Amount Of Senior Claim</u> | <u>Amount Of Claim</u> | <u>Interest</u> | <u>Monthly Payment</u> | <u>Est. Total Payment</u> |
| -0- | \$11,619.67 | 5% | \$219.28 | \$13,156.66 |

- Paragraph 8.1 Upon confirmation the Lake County Treasurer shall release to FNA DZ, LLC any surplus funds held pursuant to FNA DZ, LLC's tax sale certificate (estimate \$68,880.33).

- 6) Creditor FNA DZ, LLC objects to Debtor's proposed Chapter 13 Plan on the following grounds and basis:

- A) Creditor's secured claim is \$91,422.45 according to non-bankruptcy Indiana state law;
- B) Debtor's plan should provide for the payment of future, accruing real estate taxes;
- C) Debtor's plan should provide for the payment of property insurance premiums, and require FNA DZ, LLC to be named as additional interest loss payee;
- D) Debtor's plan provision requiring the Lake County Treasurer to release "surplus" funds to FNA – DZ, LLC is unenforceable, and contrary to non-bankruptcy Indiana state law;
- E) Debtor's plan does not provide for the payment, in full, of Creditor's secured claim; there is no provisions for payment of interest on "surplus" funds;
- F) Any plan provisions for the release of "Surplus" funds, before the full and complete payment of Creditor's secured claim, must direct immediate turnover to Creditor FNA DZ, LLC;
- G) Debtor's proposed plan is contrary to Bankruptcy case law and non-bankruptcy Indiana state law. The redemption time and period for redemption under Indiana law has fully expired and terminated.

Creditor FNA DZ, LLC objects to Debtor's proposed Chapter 13 Plan, and request an order denying confirmation of Debtor's Chapter 13 Plan.

FNA DZ, LLC
Secured Creditor

By: /s:/ Kenneth A. Manning
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CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2020, service of a true and complete copy of the above document was served by:

Electronic mail service pursuant to Court's CM/ECF system, on the following counsel:

United States Trustee – USTPRegion10.SO.ECF@usdoj.gov

Paul Chael, Chapter 13 Trustee – paul@pchael13.com

David Dabertin - dabertin@netnitco.net

By U.S. Mail First Class Postage Prepaid:

Doris Brodzinski, 2010 Lincoln Avenue, Whiting, IN 46394

/s:/ Kenneth A. Manning
Kenneth A. Manning